

Stronger Safeguards for Shellfish Beds

Shellfish beds are sensitive environments, easily contaminated by untreated sewage, animal wastes and other contaminants. They require greater attention and stricter land use and pollution control measures than many other environments.

A number of state laws and programs recognize this need and call for heightened protection of shellfish tidelands. If properly implemented and fitted together, these authorities provide essential and effective safeguards for shellfish harvesting.



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Key laws and programs:

Growth Management

The Growth Management Act, [Chapter 36.70A RCW](#), calls for coordinated and comprehensive land use planning. Shellfish protection can be addressed through a number of goals and elements of the act and accompanying regulations. Most significant are provisions in [Chapter 365-190 WAC](#) for protecting shellfish tidelands as critical areas and natural resource lands.

- *Critical Areas:* [WAC 365-190-080](#) provides guidelines for classifying shellfish beds as critical areas. Local governments can either include protection measures directly in the critical areas ordinance or reference measures that are detailed in other development regulations (e.g., zoning, stormwater and sewage regulations) and the comprehensive plan (e.g., allowable land uses and densities). The actual critical area boundaries can include either the shellfish beds or the beds and adjacent uplands. Regardless of the approach, measures called out in the comprehensive plan and development regulations should apply to all areas, activities and pollution sources potentially affecting the shellfish beds.
- *Natural Resource Lands:* [RCW 36.70A.030](#) and [WAC 365-190-050](#) provide the latitude to designate aquaculture resource lands—including commercial shellfish tidelands and their upland facilities—as lands of “long-term commercial significance for agricultural production.” As with critical areas, the comprehensive plan and development regulations should be structured to protect the values, functions and continued use of the shellfish beds while prohibiting incompatible, adjacent land uses and developments.

Shoreline Management

The Shoreline Management Act, [Chapter 90.58 RCW](#), calls for coordinated planning to protect natural shoreline conditions and functions. Shellfish harvesting is a preferred, water-dependent use spotlighted for protection. In implementing and updating Shoreline Master Programs, local governments should establish the highest possible environmental designations for upland areas (natural, conservancy or rural) and regulate land uses in accordance with these designations to preserve water quality and habitats for shellfish harvesting. (The state shoreline guidelines are currently under review.)

On-Site Sewage Management

Discharges of untreated sewage are prohibited under a number of health and water quality laws, including [Chapter 90.48 RCW](#), [Chapter 173-201A WAC](#), [Chapter 43.20 RCW](#) and [Chapter 246-271 WAC](#). The state on-site sewage regulations, [Chapter 246-272 WAC](#), establish minimum standards for the design and use of on-site systems. The regulations call on residents to properly operate and maintain their systems, and direct local health officers to institute oversight programs to ensure compliance with these rules. The regulations also give local health officers responsibility to designate “areas of special concern” to ensure protection of shellfish growing areas and other sensitive environments ([WAC 246-272-21501](#)). This authority allows local governments to institute higher standards in areas draining to shellfish tidelands for the siting, use, maintenance and monitoring of on-site systems; new development; water quality monitoring; and other activities.

Stormwater Management

The Department of Ecology’s [Stormwater Management Manual for Western Washington](#) lays out minimum requirements for stormwater management in the Puget Sound basin. Sections 1.6.11 and 1.6.13 in [Volume I](#) give local governments discretion to institute more stringent standards as appropriate, or as required to fulfill recommendations of watershed plans, basin plans or Total Maximum Daily Load (TMDL) water cleanup plans. Among other considerations, local governments should pay particular attention to [low impact development](#) techniques while implementing the on-site stormwater management practices described in Chapter 5, [Volume V](#).

Shellfish Protection Districts

[Chapter 90.72 RCW](#) calls on local governments to set up shellfish protection districts and programs to protect and restore water quality in shellfish growing areas. The law focuses largely on actions to prevent and control pollution in shellfish areas, but it also includes important land use provisions. [RCW 90.72.030](#) directs counties to set up shellfish protection programs that include “any elements deemed appropriate” to address the water quality problems, which can potentially involve changes to local land use plans and development regulations. In addition, [RCW 90.72.060](#) states that local governments must follow the State Environmental Policy Act ([Chapter 43.21C RCW](#)) in evaluating proposed developments, changes in land use, or changes in utility services that conflict with continued long-term use of shellfish tidelands within these districts.



Photo courtesy of Geoff Menzies

Puget Sound Management Plan

Recognizing the significance and interdependence of these laws and programs, the [2000 Puget Sound Water Quality Management Plan](#) calls on cities and counties to take full advantage of these authorities to protect and restore shellfish beds. Element SF-2 of the [Shellfish Protection Program](#) provides the following guidance:

“Cities and counties shall fully implement provisions of the Growth Management Act (Chapter 36.70A RCW) and accompanying regulations (including Chapter 365-190 WAC) to protect and, where feasible, restore water quality in shellfish areas. Local governments shall also use other regulatory tools such as the Shoreline Management Act (Chapter 90.58 RCW) and accompanying guidelines (Chapter 173-26 WAC), the State Environmental Policy Act (Chapter 43.21C, Chapter 197-11 WAC), and state and local on-site sewage regulations (Chapter 246-272 WAC) to protect shoreline habitats and to ensure compliance with water quality standards in shellfish areas. In places where existing or projected land uses or sources of contamination threaten the condition or classification of shellfish areas, local governments shall institute strategies to mitigate the effects.”

For more information, check out the complete text of the Puget Sound plan, additional fact sheets about the update process, and information about the Action Team at www.wa.gov/puget_sound or call the Action Team at (360) 407-7300 or 1 (800) 54-SOUND. If you need these materials in an alternative format, call our TDD number 1-800-833-6388.